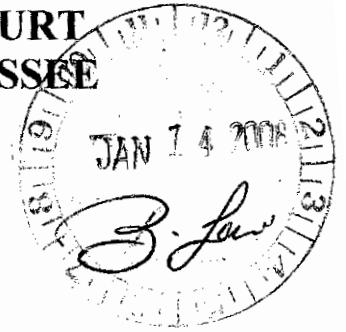


**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**



James S. Burnette

Plaintiff Pro Se

V.

Case No. _____

Phil Bredesen

Governor State of Tennessee

Individually and as Governor of State of Tennessee.

Ron Ramsey

Lt. Governor State of Tennessee, Speaker of the Senate

Individually and as Lt. Governor State of Tennessee,

And as Speaker of the Senate State of Tennessee in his

Official capacity.

Jimmy Naifeh

Speaker of the House of Representatives

Individually and as Speaker of the House of

Representatives State of Tennessee and his official

Capacity.

Montgomery, Richard, Moore, Gary W., Naifeh, Jimmy,)
 Odom, Gary, Pinion, Phillip, Pitts, Joe, Pruitt, Mary, Rinks,)
 Randy, Roach, Dennis E., Shaw, Johnny, Sheppard, David,)
 Sontany, Janice Baird, Swafford, Erie H., Tindell, Harry J.,)
 Towns, Joe Jr., Turner, Mike, Vaughn, Nathan, Watson, Eric,)
 West, Ben Jr., Williams, Kent, Winningham, Les, Yokley, Eddie)
 Individually and in their official capacity as Representatives)
 For the State of Tennessee Defendants.)

COMPLAINT

Plaintiff James S. Burnette, brings this action to obtain redress for the deprivation and conspiracy to deprive Plaintiff of his federally protected rights, as hereafter alleged. This case arises under the Constitution of the United States, this action seeks redress and damages for Violation of 42 U.S.C. 1983, 42 U.S.C. 1985, and 42 U.S.C. 1981(c.) and in particular, the due process and equal protection provisions of the United States Constitution, including the rights protected in the Fifth and Fourteenth Amendments thereof and the Civil Rights Act of 1964. Title II. Sec.201(a) (d).

The Parties:

1. Plaintiff, James S. Burnette, (hereafter "Burnette"), is a citizen of the State of Tennessee.
2. Defendant, the Governor of the State of Tennessee, individually and in his official capacity.
3. Defendants named, Senators for the State of Tennessee, individually and in their official capacity.
4. Defendants named, Representatives for the State of Tennessee individually and in their official capacity (hereafter referred to as "Senator" or "Representative").

5. Facts. The Department of Health for the State of Tennessee states, "There are more than one million adult smokers in the State of Tennessee". Plaintiff (Burnette) is a member of this class of people or race of people.
6. The legislature for the State of Tennessee, Governor, Senators, Representatives Passed a Senate Bill 1325. An Act to Amend Tennessee Code Annotated, Title 39, Chapter 17. Title 50 and 68, to enact the "NON-SMOKERS PROTECTION ACT" passed May 31, 2007 and approved the 11th day of June 2007 by all the named Defendants. (Attached as exhibit A).
7. "NON-SMOKER PROTECTION ACT" Section 39-17-1803(A) (Senate Bill 1325) State Smoking is prohibited in all enclosed public places within the State of Tennessee, but, not limited to the following; Sections (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (B), these sections are in direct violation of Plaintiffs Constitutional Rights, the Fifth and Fourteenth Amendments of the Constitution – Plaintiffs lifestyle choice. Further, Plaintiff states this section violates the Civil Rights Act of 1964 Title II Section 201 (A) which states "All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin."
 - (A) The "NON-SMOKER PROTECTION ACT" violates the above, as same discriminates against Plaintiff, a smoker, and segregates him from all public places, and favors the non-smoker.
 - (B) The owner of a business, restaurant, bar or club should have the right to provide services to whomever he/she sees fit. "CHOICE". The owner should be free to choose smoking or non-smoking, the employees are free to choose whether to work there and smokers/non-smokers are free to choose whether to enter or not.
 - (C) However, the Governor and Legislature for the State of Tennessee, has decided smokers have not the Right of Choice, and such violates Plaintiffs Rights under the Constitution and Laws of the United States.
8. Plaintiff incorporates by reference paragraphs 1-7.

9. "Senate Bill NO2326"

An Act to amend Tennessee code annotated, Title 67, chapter 4, part 10, relative to the taxation of cigarettes. (Attached as exhibit B).

Section 3, Tennessee code annotated, section 67-4-1025, is amended by adding the following language as a new subsection (D):

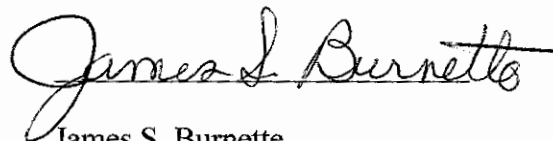
(D) Notwithstanding the provisions of subsection (A) and (B) of this section to the contrary, all the cigarette tax revenue generated from the increase in the tax rate from 10 mills to three cents on each cigarette shall be deposited in the education trust fund created by Title 49, chapter 3, provided that an amount of twenty one million dollars of such cigarette tax revenues shall be allocated to the Department of Agriculture's Tennessee agriculture enhancement program.

10. The sixty cents per pack tax increase is to fund basic education and Department of Agriculture, which violates Plaintiffs Constitutional Rights of Equal Protection, and is an unjust enrichment for the non-smoker and discriminates against Plaintiff, a smoker, and put into law by Senator Kyle and Representative Bone, who admit it was passed to get people to quit smoking –a blatant conspiracy. Further, the tax was not necessary as the State of Tennessee had a 1.3 billion dollar surplus.

Plaintiff demands Jury Trial

I hereby certify under penalty of perjury that the above petition is true to the best of my information, knowledge and belief.

Signed this 14th day of January 2008



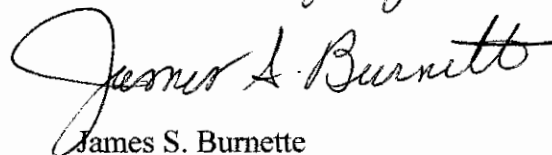
James S. Burnette
Plaintiff Pro Se

RELIEF REQUESTED

1. Plaintiff request the following relief:

- (A) Judgment against each defendant for \$10,000.00 (ten thousand dollars), punitive, for such callous disregard of Plaintiffs Rights.
- (B) Plaintiff expense and cost.
- (C) The right to amend this complaint.
- (D) Repeal "Non-Smokers Protection Act".
- (E) Repeal Senate Bill No. 2326, the taxation of cigarettes.
- (F) Such other relief as the court deems just and proper.

Respectfully Submitted
This 14th day of January 2008



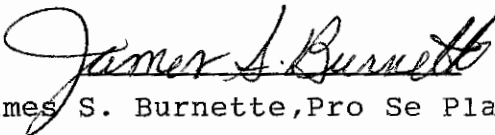
James S. Burnette
Plaintiff Pro Se
132 County Road 79
Riceville, TN 37370
(423) 462-2220

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served on the following persons:

Phil Bredesen, Governor State of Tennessee
Governors Office
Tennessee State Capitol
Nashville, Tennessee 37243-0001

by depositing same in the United States mail this 14th day
of January, 2008.


James S. Burnette, Pro Se Plaintiff
132 County Road 79
P.O. Box 11
Riceville, TN 37370
(423) 462-2220

This 14th day of January, 2008